

Consideration of preliminary adoption of amendments to 312 IAC 2-4 governing fishing tournaments and other organized activities on public waters; Administrative Cause No. 08-186P

Amendments are proposed to 312 IAC 2-4 which governs organized activities (most notably fishing tournaments) on public waters. This rule is administered jointly, but on different lakes, by the Division of State Parks and Reservoirs and the Division of Law Enforcement. The proposed amendments have significance primarily to fishing tournaments administered by the Division of State Parks and Reservoirs.

Key components of the proposed amendments include the following:

- (1) Makes the rules flow better from an organization perspective. Notably, 312 IAC 2-4-6 currently governs the license application process, and 312 IAC 2-4-7 governs advance date approval. Advance date approval occurs sequentially before the license application process, however, so the numbering of rule sections causes confusion. With the amendments, the license application process would be relocated to 312 IAC 2-4-7.5 so it would appear in the rule after consideration of advance date approval in 312 IAC 2-4-7.
- (2) Revises the annual draw date language to clarify an applicant must be an individual but allows an individual to represent an organization. Sanctions for noncompliance may be applied to either an individual or organization.
- (3) Authorizes the addition of dates or an increase in the number of boats following completion of advance date approval, but clarifies that this authorization is subordinate to prior approvals. 312 IAC 2-4-7.5(c).
- (4) Clarifies that for the draw date only, license approvals are limited to dates that are at least 14 days apart on the same waterway. 312 IAC 2-4-9(11).
- (5) Increases the bond on a fishing tournament at a reservoirs property from \$150 to \$300 per property. 312 IAC 2-4-12(g).
- (6) Provides that the failure of a license holder to report information required by 312 IAC 2-4-9.5 may result in bond forfeiture for a fishing tournament conducted at a reservoirs property. 312 IAC 2-4-12(g)(1)(C).

The Division of State Parks and Reservoirs recommends preliminary adoption of the amendments set forth below:

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #09-

DIGEST

Amends 312 IAC 2-4 which governs organized activities and tournaments on designated public waters. Reorganizes standards pertaining to fishing tournaments. Clarifies that an applicant must be an individual but an individual may represent an organization. Clarifies that sanctions for noncompliance may be applied to an individual or an organization. Authorizes new license approvals or the addition of boats in a licensed event but provides that the approvals would be subordinate to license terms previously approved. Specifies that a 14-day minimum separation for fishing tournaments on the same property applies only to a license resulting from the initial drawing. Increases the bond for a fishing tournament at a property administered by the DNR's Division of State Parks and Reservoirs. Provides that failure to comply with reporting requirements in 312 IAC 2-4-9.5 may result in bond forfeiture for a fishing tournament at a property administered by the DNR's Division of State Parks and Reservoirs. Makes other administrative and technical changes. Effective January 1, 2011.

312 IAC 2-4-7, 312 IAC 2-4-7.5, 312 IAC 2-4-9, 312 IAC 2-4-9.5, 312 IAC 2-4-9.5

SECTION 1. 312 IAC 2-4-7 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-7 Advance date approval

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 7. (a) The department shall conduct an organizational meeting or meetings between October 1 and November 15 to establish dates for the following year on which fishing tournaments or other organized activities can be conducted. **The department may apply any reasonable process in an organizational meeting, including holding a drawing, to reserve a date or dates for a scheduled event and to minimize user conflict. As a condition for participation in a drawing, an individual may be required to identify the organization that the individual represents. The department shall not approve more than one (1) scheduled event for an individual on the same waterway, if the events would be separated by less than fourteen (14) days.**

(b) In addition to the establishment of dates under subsection (a), the department may establish a date for a tournament beyond the following year if ~~a person~~ **an individual** presents satisfactory evidence that a tournament would have national significance.

(c) ~~A person~~ **An individual** who receives a reserved date must submit a completed license application within thirty (30) days of notification and at least sixty (60) days before the scheduled event, whichever is earlier. Failure to submit a timely completed application releases the reservation.

(d) ~~A person~~ **An individual** is disqualified from participating in an organizational meeting unless **the individual and the organization that the individual represents have paid** any outstanding fee or cost established in section 12 of this rule ~~has been paid~~. (*Natural Resources Commission; 312 IAC 2-4-7; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3319, eff Oct 1, 2003; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA*)

SECTION 2. 312 IAC 2-4-7.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 2-4-7.5 License application

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 7.5. (a) An application for a license to conduct a fishing tournament or other organized activity must be completed on a department form at least sixty (60) days before the date of the proposed tournament.

(b) An applicant must be an individual who is:

- (1) at least eighteen (18) years of age; and
- (2) a resident of Indiana.

(c) The applicant must state one (1) of the following:

- (1) the terms of a reserved date obtained under section 7 of this rule;
- (2) if a reserved date was not obtained under subdivision (1), the activity, location, and number of boats for which approval is sought. An application under this subdivision is subject to an application previously:

- (A) reserved under subdivision (1); or
- (B) delivered to the department under this subsection;

(3) if an applicant seeks approval for additional boats to participate in a scheduled event approved under subdivision (1) or subdivision (2), the number of boats to be added. An application under this subdivision is subject to an application previously submitted under this subsection.

(d) The applicant must attach a copy of proposed standards that would govern the organized activity.

(e) The department shall not approve any license or amended license under this section which would authorize an organized activity to exceed the maximum limits applicable to a lake under section 12 through section 14 of this rule.

(f) The department shall condition any license to achieve at least one (1) of the following:

- (1) Prevention of unusual conditions or hazards.
- (2) Promotion of scientific fish, wildlife, or botanical resource management.
- (3) Assistance in the protection of users.

(g) To accomplish the purposes described in subsection (f), the department may:

- (1) Designate the following:
 - (A) The starting time or ending time for an activity.
 - (B) The time and location for the use of any public facilities.
- (2) Spread starting times among license holders if more than one (1) is approved for a particular waterway.

(3) Restrict portions of the waterway from use by the participants.

(h) The department may require a nonrefundable application fee with the application. The director shall establish the amount of the fee within a range approved by the commission. *(312 IAC 2-4-7.5)*

SECTION 3. 312 IAC 2-4-9 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-9 General duties of license holder

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 9. In addition to the terms of the license and the requirements otherwise set forth in this rule, a license holder must do the following:

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- (1) At least fourteen (14) days before the scheduled event, deliver a list of officials who will be present during the event.
- (2) Obtain permission from the department to use a zone or zones in the public water for mooring, judging, weigh-in, starting, or for any other activities using public facilities.
- (3) Upon the request of the department, meet with a designated authorized representative or representatives before a tournament or other organized activity begins.
- (4) Remove equipment and refuse and otherwise restore zones used in connection with a fishing tournament or other organized activity to the condition that existed before the event as directed by the department.
- (5) Provide officials needed to supervise participants and spectators.
- (6) Require each participating watercraft to clearly display a logo, banner, or other visible item approved by the department to identify the tournament or other organized activity.
- (7) Establish a starting location for the tournament or other organized activity within an idle speed zone.
- (8) Refrain from and prohibit the sale of food, beverages, or supplies within the area of the activity unless approved in writing by the department and the owner of the area.
- (9) Refrain from obstructing ingress, egress, or regress from private property.
- (10) Assure reasonable access to all persons to public use facilities, including swimming areas, mooring areas, navigational channels, and similar facilities. Limitations on the usage of facilities must include the following:
 - (A) Except as provided in clause (B), vehicles and trailers of contestants must use no more than seventy-five percent (75%) of the ramp and parking facilities in the staging area of the tournament.
 - (B) The owner of the staging area may, in writing, authorize more than the maximum allowed usage under clause (A). This clause does not apply to a fishing tournament that is subject to section 12 of this rule.
- (11) ~~Sponsor~~ **Apply in a drawing held under section 7(b) of this rule** for no more than one (1) ~~scheduled event licensed under this rule~~ on the same waterway with starting dates separated by less than fourteen (14) days. A tournament scheduled for two (2) consecutive days is ~~considered~~ a single event. **For a tournament administered by the division of law enforcement, may authorize an individual to seek may apply for** more than one (1) event on the same waterway, with starting dates separated by less than fourteen (14) days, if ~~in seeking the license, the individual is acting as the agent for different tournament organizations.~~
An individual or organization that demonstrates a pattern of violations of this subdivision may be denied another license.
- (12) Act in good faith to fully perform the event. ~~A person who~~ **An individual or**

(Natural Resources Commission; 312 IAC 2-4-9; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3319, eff Oct 1, 2003)

SECTION 4. 312 IAC 2-4-9.5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-9.5 Reporting

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 9.5. (a) A license holder must report the results of the event on a form provided by the department within thirty (30) days of the completion of the event, including the number of boats and participants, starting and ending times, and actual use of public facilities.

(b) In addition to the terms of the license and the requirements otherwise set forth in this rule, the department may require a fishing tournament license holder to keep and report **by a specified date**, on a department form, legible and accurate records of the following:

- (1) Tournament name.
- (2) Name, address, and telephone number of the license holder.
- (3) Tournament date or dates, including starting time and ending time.
- (4) Target fish species.
- (5) Name of any waterway fished.
- (6) Number of boats and number of participants.
- (7) Individual or team catch-statistics for each species of fish taken, including the following:

(A) The numbers and lengths of fish weighed-in.

(B) The numbers and lengths of fish caught and released.

(Natural Resources Commission; 312 IAC 2-4-9.5; filed May 16, 2002, 10:00 a.m.: 25 IR 3045; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3320, eff Oct 1, 2003)

SECTION 5. 312 IAC 2-4-12 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-12 Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 5-14-3; IC 14

Sec. 12. (a) This section governs fishing tournaments at lakes administered by the division of state parks and reservoirs.

(b) The number of boats that may participate in a fishing tournament must not, on any date, exceed the following:

	Monroe	Salamonie	Mississinewa	Huntington	Brookville	Hardy	Patoka	Lieber	Raccoon
March	100	75	75	18	100	30	178	50	100
April	175	75	75	18	100	30	178	50	60
May	175	75	75	30	100	20	178	28	50
June	175	30	30	30	75	20	125	28	50
July	175	30	30	30	75	20	125	28	50
August	175	30	30	30	75	20	125	28	50
September	175	75	75	30	100	20	178	28	60
October	175	75	75	18	100	30	178	50	100
November	100	75	75	18	100	30	178	50	100

(c) A boat used to administer a tournament is excluded in determining the number of participating boats.

(d) The director may authorize a license for a fishing tournament under this section where the participants are not provided advance notice of the location. The name of the lake may be omitted from the license application, but the department must be provided with the name of the lake at least ten (10) days before the tournament. A license issued under this subsection does not authorize a fishing tournament that conflicts with another license issued under this section. Subject to IC 5-14-3, the department will not publish the location of a fishing tournament issued under this subsection.

(e) Notwithstanding subsection (b), a fishing tournament on Monroe Lake, from October 15 through the end of February, is restricted to a maximum of one hundred (100) participating boats.

(f) At least thirty (30) days before the scheduled event, a license holder must file a certificate of insurance or an insurance binder with the department. The certificate of insurance or insurance binder shall name the license holder and the department as insureds and shall demonstrate the license holder has obtained an irrevocable general liability insurance policy with a limitation for each of the following of not less than:

(1) One hundred thousand dollars (\$100,000) for all damages to property for a single occurrence.

(2) One hundred thousand dollars (\$100,000) for injury or death of one (1) person in a single occurrence.

(3) Three hundred thousand dollars (\$300,000) for injury to or death of multiple persons in a single occurrence.

(g) Attached to the application for each property, the applicant must deliver a cash bond or other security approved by the department in the amount of ~~one hundred fifty~~ **three hundred** dollars (~~\$150~~) (**\$300**). Bond may be forfeited for any of the following reasons:

(1) Failure to:

(A) pay the user fee within the prescribed time frame; ~~or~~

(B) cancel the event within thirty (30) days from the date the application was submitted; **or**

(C) comply with section 9.5 of this rule.

(2) Restoration of the mooring judge's or spectators' area.

(3) Reimburse to the department for cost of supervision, maintenance, and labor.

(4) To collect any other unpaid fees or costs that are due, including expenses incurred in the collection of the unpaid fees.

(h) Within fourteen (14) days after a tournament, the license holder must provide to the department a user fee equal to the greater of:

(1) eighty percent (80%) of the number of boats listed on the license; or

(2) the number of boats participating in the tournament.

If the user fee under this subsection is greater than the amount of the bond, the organization is also responsible for the difference.

(i) The amount of the fee shall be established by the director within a range of fees for this purpose approved by the commission. The director may waive the user fee if the:

(1) tournament is held for charity where all of the profits are given to that charity; and

(2) waiver request is:

(A) made in writing; and

(B) submitted with the application.

(j) The director may require insurance in addition to what is set forth in subsection (f) if the director determines a fishing tournament poses an unusual risk of liability to the department.

(k) A license holder shall:

(1) indemnify;

(2) defend;

(3) exculpate; and

(4) hold harmless;

the department and its officials, employees, and agents from liability due to loss, damage, injury, or other casualty to the person or property of anyone arising directly or indirectly from the activity.

(l) The department may deny **a license application** or **may** revoke a license **issued** under this section if any fee or cost provided under this section is delinquent. ~~If an applicant subsequently satisfies~~ **Upon the satisfaction of** any delinquencies, ~~the person is eligible to an individual may~~ apply for a new license. (*Natural Resources Commission; 312 IAC 2-4-12; filed Aug 3, 2001,*

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10:54 a.m.: 24 IR 3932, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3320, eff Oct 1, 2003; filed Jan 5, 2005, 11:00 a.m.: 28 IR 1460; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA)

SECTION 6. 312 IAC 2-4-6 IS REPEALED.